

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ZEM ZEM SHRINERS, A.A.O.N.M.S.,	)	
an unincorporated association,	)	
	)	
Plaintiff	)	C.A. No. 05-57E
	)	
v.	)	JURY TRIAL DEMANDED
	)	
PATRICK H. SCHWINDT,	)	
an adult individual,	)	
	)	Electronically Filed
Defendant/Third Party Plaintiff	)	
	)	
v.	)	
	)	
GEORGE HEPLER, DAVID SCHICK, AND	)	
DUANE WILLEY	)	
	)	
Third-Party Defendants	)	

**MOTION TO STAY COURT ORDER PENDING APPEAL**

AND NOW, comes the above defendant, Patrick Schwindt, by his attorneys, AMBROSE, FRIEDMAN and WEICHLER, and respectfully files the following Motion to Stay Court Order Pending Appeal and states in support thereof the following:

1. On June 27, 2005 this Court entered an Order denying the defendant's Motion to Quash Subpoenas issued to National City Bank, Schwindt Brothers, Inc., Marquette Savings Bank, Northwest Savings Bank, PNC Bank and Michael T. Moore, CPA, for the production of the defendant and the defendant's wife's personal financial records.
2. On July 7, 2005 the defendant filed an appeal of the Court's Order to the United States Court of Appeals for the Third Circuit.

3. In *In Re Grand Jury*, 111 F.3d 1066, (3<sup>rd</sup> Cir. 1997) the Court held that an order denying a motion to quash a subpoena is immediately appealable when the individual filing the motion has a privacy interest in the records and when he or she cannot exercise the option of contempt because he or she does not have possession of the records.

4. The defendant respectfully avers that a stay of the Court's Order denying the Motion to Quash is implicit in that appellate review would be meaningless if the records were obtained prior to such review being conducted. The harm sought to be prevented by the Motion to Quash could in fact not be prevented if the records were provided prior to review by the Third Circuit.

WHEREFORE, the defendant respectfully requests an Order of this Court granting a stay of its Order dated June 27, 2005 pending review by the United States Court of Appeals for the Third Circuit.

Respectfully submitted,

**AMBROSE, FRIEDMAN and WEICHLER**

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